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GENERAL COUNSEL'S OPINION NUMBER 55-22, DATED 1 AUGUST 1955

An employee ordered PCS from a foreign post to Washington, and who has reported in for permanent duty, cannot thereafter be reimbursed for travel expenses to or from his "home leave" point.

TO THE COMPTROLLER

1. In a memorandum to this office from the Acting Chief, Travel Section, Finance Division, dated 28 April 1955, you raise the question whether an employee returned PCS to Washington from a foreign duty station may take home leave after reporting to Washington and commencing his permanent duties there and, if so, if he must take such leave within any particular time after reporting.

2. An employee is, of course, entitled to use his accrued annual leave or to take LWOP whenever his supervisor permits him to do so. Except insofar as the Congress has limited the amount of leave that may be carried over from year to year, there is no "time limit" during which accrued leave must be used or forfeited.

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3. "Home leave" as granted by CIA is not (unlike the Foreign Service) extra leave.

4. We are assuming the case in which an employee has met the requirements for home leave, which are that he be assigned to a permanent duty station in a foreign area, that he have been a resident of the United States or its territories and possessions at time of employment, that he have completed two years continuous service abroad, and that he have sufficient accrued annual leave to carry him in a pay status for 30 days after arriving in the United States. So long as these qualifications are met it is immaterial whether the employee's projected duty station after leave is his former station, a new foreign station, or Washington (See General Counsel's memorandum to the Comptroller, dated 6 November 1952, Subject: Legality of payment of travel and transportation expenses incident to home leave for overseas personnel on permanent change of station to the continental United States.).

5. An individual on permanent change of station who is not entitled to home leave may nevertheless be granted variations in his itinerary or delays en route, provided that he bears the excess travel costs and that excess travel time as well as any delays are charged to

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either annual leave or leave without pay. An individual undertaking a permanent change of station which involves his traveling through the United States, whether to another foreign station or Washington, if the point where he desires to take leave chances to lie on his regular route, he may receive in effect benefits comparable to those granted under the STATOTHR "home leave" provisions.

6.

An employee assigned PCS to Washington then, and who has reported in for permanent duty, is no longer eligible for the benefit of these provisions.

7. Frequently an employee is brought in for a short period of temporary duty in Washington, for the convenience of the Government, prior to proceeding on home leave. Except in cases where Washington lies on the direct route between the former station and the home leave point, however, there is no authority for providing the travel expenses of his dependents into Washington, nor in any case is there authority for paying them per diem if they choose to remain in Washington with him. Travel expenses for dependents under the home leave provision embrace only those expenses necessarily incurred in going by the most direct route from the former PCS station to the home leave point and return to that or a new station. The employee, if ordered to Washington TDY for the convenience of the Government, may be authorized travel expenses from his home leave point to Washington and return, or he alternatively may be directed to report into Washington en route while proceeding to or from his home leave point.

8. In conclusion, there is no "time limit" involved. If the employee is brought to Washington TDY, he retains his right to proceed on "home leave" whenever that duty is completed. If he reports to Washington PCS and assumes his new duties, this right is lost immediately. The purpose of permitting TDY in these cases is to allow consultation with the employee concerning the assignment he has just left or other specialized knowledge he possesses, or to discuss with him projected future assignments. The cutting of TDY orders for the sole purpose of bringing the employee in early for his new permanent assignment, while preserving his "home leave" rights, would of course be improper.

9. A copy of your memorandum is returned herewith.

LAWRENCE R. HOUSTON
General Counsel

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